

JUAN ARQUIZA LUTA, PLAINTIFF AND APPELLANT, VS. THE MUNICIPALITY OF ZAMBOANGA AND MATEO PAULINO, AS MUNICIPAL TREASURER OF ZAMBOANGA, DEFENDANTS AND APPELLEES.

G.R. No. 26941. September 27, 1927

Ponente: MALCOLM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-26941/>

MALCOLM, J.:

In the Court of First Instance of Zamboanga an action was brought to secure a legal declaration that section 16 of Ordinances Nos. 188, 197, and 199 of the municipality of Zamboanga were invalid, and to obtain the return of two thousand pesos (P2,000) paid under protest pursuant to the provisions of the said ordinances, and the costs. The case was submitted for decision on the following agreed facts:

- "1. That the plaintiff holds internal revenue licenses for the last quarter of 1925 and the three quarters of 1926 as wholesale liquor dealer, retail liquor dealer, retail fermented liquor dealer, retail 'vino' dealer and wholesale fermented liquor dealer, as shown by Exhibits A, B, C, D and E and that these are internal revenue taxes.
- "2. That the receipts for the payment of these taxes for the three quarters of 1926 are Exhibits F, G, H, I and J, also internal revenue taxes.
- "3. That the receipts A to J refer to the wine and liquors business of Juan1 Arquiza Luta in the municipality of Zamboanga on Calle Guardia Nacional corner of Governor Lim.
- "4. That the Exhibits K, L, M and N are receipts for the payment of a municipal license for a bar or canteen.
- "5. That Exhibits O, P, Q and R are plaintiff's license for a liquor store which is not the bar.
- "6. That the payments made after January 1, 1926 were made voluntarily by the plaintiff, stating that he paid under protest without having been required to do so by the defendants.
- "7. That Exhibits S, T and U, which are the ordinances attached to case No. 1337, be also considered as Exhibits S, T and U in this case.
- "8. That that part of paragraph 7 of the complaint which reads: 'compelled the plaintiff to make said payment is illegal constituting a double tax,' should read: 'compelled the plaintiff to make said payment is illegal and because it constitutes a double tax;' and that this amendment be deemed also introduced in paragraph 3 of the supplemental complaint in the same manner.
- "9. That the plaintiff's bar is a distinct department from his wines and liquors and general merchandise store, connected by a door; that the bar has a show-case where different kinds of wines and liquors, etc., are displayed; that in the plaintiff's store, distinct from the bar, where he sells general merchandise, are show-cases containing various kinds of liquors and fermented spirits which are sold to the public in corked or closed bottles for consumption outside of the store.

"10. That Ordinance No. 197 of the municipality of Zamboanga went into effect on January 1, 1926, but was disapproved by the provincial board on March 26, 1926 and the municipal council of Zamboanga later approved Ordinance No. 199 in its stead.

"11. That all of these exhibits presented by the plaintiff as a part of the evidence in this case were admitted over the objection of the defendants as being incompetent, immaterial and irrelevant, said defendants having excepted to the admission thereof."

Section 16 of Ordinances Nos. 188, 197, and 199 of the municipality of Zamboanga, the validity of which are disputed, provides:

"ART. 16. Sale of liquors.—The following annual license fees, payable quarterly and in advance, are hereby imposed:

"(a) For the retail sale of wines and liquors of the country and imported in corked bottles not consumed in establishments within one and a half kilometers from the provincial capital, P2,000 annually.

"(a-1) For the wholesale sale of wines and liquors of the country and imported in corked bottles, not consumed in establishments within one and a half kilometers from the provincial capital, P200 annually.

"(b) For the retail sale of wines and liquors of the country and imported in corked bottles not consumed in establishments beyond one and a half kilometers from the provincial capital, P500 annually.

"(b-1) For the wholesale sale of wines and liquors of the country and imported in corked bottles not consumed in establishments beyond a kilometer and a half from the provincial board, P100 annually.

(c) For the retail sale of wines and liquors of the country only, excluding beer in corked bottles, not consumed in establishments beyond a kilometer from the provincial capital, P180 annually.

"(c-1) For the wholesale sale of wines and liquors of the country only, excluding beer in corked bottles, not consumed in establishments beyond a kilometer and a half from the provincial capital, P60 annually.

"The holders of licenses under this article are prohibited from selling wines and liquors of any kind, retail or wholesale, for consumption within the establishment."

The judgment absolved the municipality of Zamboanga and the municipal treasurer of Zamboanga as defendants from the complaint, with costs. From the judgment against him, the plaintiff has appealed, and here has assigned that the Court of First Instance of Zamboanga erred:

"1. In not holding that the municipal council of Zamboanga was not authorized by any law to impose the tax created by article 16 of said Ordinances Nos. 188, 197, and 199.

"2. In not holding that the so-called municipal license which is imposed under article 16 of said ordinances is a tax which the plaintiff is already paying under section 1464 of the Administrative Code and therefore said article 16 is illegal for it constitutes a double tax.

"3. In not holding that the municipal license for canteens or bars paid without protest by the plaintiffs by virtue of articles 27 et seq. of said ordinances, exempt the plaintiffs from the obligation of paying the so-called municipal license under article 16 of said ordinances.

"4. In not holding that article 16 of the said ordinances was illegal, being an importation tax.

"5. In denying the motion for a new trial."

The law pertaining to the case is found in the Administrative Code in sections 1454, 1464, 2625, and 2629. The most important of these legal provisions is a portion of sub-section (d) of section 2625, a part of the Municipal

Law for Mindanao and Sulu. It provides:

"SEC. 2625. The municipal council—Powers.—The municipal council shall have power by ordinance or resolution:

"* * * * *

"(d) Licenses and license fee.—* * *.

"To regulate, license, or prohibit * * * the selling, giving away, or disposing, in any manner of any intoxicating, spirituous, vinous, or fermented liquors * * *, and fix the sum to be paid for such licenses.

"But nothing in this section shall be held to repeal or modify the provisions of law prohibiting the sale, gift, or other disposal of intoxicating liquors, other than native wines and liquors, to non-Christian inhabitants.

"* * * * *

A study of Ordinance No. 199 of the municipality of Zamboanga in relation with Ordinances Nos. 188 and 197 discloses that it contains comprehensive provisions regulating the imposition of licenses. Some point has been made as to the true meaning of section 16 relating to the sale of liquors. Apparently, the municipal intention was to establish two zones within one of which establishments should pay certain fees and beyond which establishments should pay certain other fees. It cannot, therefore, be fairly said that the provisions under scrutiny suffer from ambiguity or are void for uncertainty. Indeed, this does not appear to have been the theory of the plaintiff in the lower court, and is not now pointed out as an error in this court, and so may be passed over without further comment.

Passing in review the five errors assigned, it is our opinion that most of them merit no serious consideration. The stipulated facts and the law itself constitute sufficient answers. The only point which needs elucidation is whether or not the ordinance in question should be placed under the power to tax and held void, or under the power to license and held valid.

The question above suggested was given rather elaborate consideration in the recent case of *Pacific Commercial Company vs. Romualdez and Alfonso* ([1927], 49 Phil., 917). It was there held that Ordinance No. 1264 of the City of Manila was invalid as an unauthorized tax measure. It was said that "The terms 'license' and 'regulate' in a municipal charter may authorize licenses for the purpose of raising revenue, if there is nothing antagonistic in the rest of the charter. Otherwise not." It was further observed: "A comparison of the provisions of the Manila Charter relative to the legislative powers of the Municipal Board makes it apparent that the power to tax was given where it was intended to be exercised, and that it was not given where it was not intended to be exercised." But we think that the case at bar can be fairly distinguished from the case of *Pacific Commercial Company vs. Romualdez and Alfonso*, supra. The prime reason is that the Municipal Law for Mindanao and Sulu does not contain provisions indicative of a strict distinction between the licensing power and the taxing power. In the broadest possible manner, the municipal councils within the confines of Mindanao and Sulu are given power over the sale of intoxicating liquors. And this power is not detracted from by a comparison with other powers in the same law or the same section defining the right to tax.

A branch of the subject was given attention in the case of *Cuunjieng vs. Patstone* ([1922], 42 Phil., 818). The distinction was there drawn between license fees for useful occupations or enterprises and non-useful occupations or enterprises. It was held: "In the absence of special authority to impose a license fee or tax for revenue, the fee for licenses for the regulation of useful occupations or enterprises may only be of a sufficient amount to include the expense of issuing the license and the cost of the necessary inspection and police surveillance, taking into account not only the expense of direct regulation but also incidental consequences. In fixing fees for licenses for non-useful occupations, a municipal corporation is allowed a wider discretion than in regard to license fees for

useful occupations, and aside from applying the legal principle that municipal ordinances must not be unreasonable, oppressive, or tyrannical, the counts have generally declined to interfere with such discretion." Keeping this rule to the forefront, it will be recalled that the ordinance before us concerns the sale of liquors which should be classified as a non-useful business. It will also be recalled that the licenses are not only intended for the strictly related power to regulate but might extend so far as to prohibit.

Of even a more fundamental nature is the undeniable fact that the municipal authorities of Zamboanga, better acquainted than we are with the local conditions, were attempting, under the power to license, to regulate the sale of liquors. If under ordinances thus enacted incidental revenue should accrue, it would not undermine the validity of the local provisions. Whether certain sums fixed for certain activities in the sale of liquors were appropriate for the purpose, could better be decided by the local authorities than by any one else. The presumption must be, in lieu of convincing evidence to the contrary, that the ordinances are just and reasonable. The courts should not adopt a policy of petty picking at municipal officials who are attempting to perform their duties, and so through judicial interference, unduly embarrass municipal administration.

After a prolonged consideration of this case with reference to the admitted facts and the law and with reference to the particular errors assigned, the court reaches the definite conclusion that section 16 of Ordinances Nos. 188, 197, and 199 of the municipality of Zamboanga are valid.

Judgment is affirmed, with the costs of this instance against the appellant.

Avanceña, C. J., Johnson, Street, Villamor, Romualdez, and Villa-Real, JJ., concur.

CONCURRING OPINION

JOHNS, J.:

The rule is elementary that on an appeal in a civil action, in particular, the merits of the appeal are limited and confined to the errors assigned.

That is true in this case. Following that rule, I am forced to concur in the result. If all of the legal questions involved in this case had been raised on this appeal, another and a very different question would be presented. It is for such reason that I concur in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.